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18 | Attorneys for Defendant NETFLIX, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

22 LAURI VALJAKKA

**Plaintiff,**

24 | v.

25 | NETFLIX, INC.

**Defendant.**

Case No. 4:22-cv-01490-JST

**DEFENDANT NETFLIX, INC.'S  
ADMINISTRATIVE MOTION TO FILE  
DOCUMENTS UNDER SEAL**

1                   **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2                   NOTICE IS HEREBY GIVEN that in accordance with Civil Local Rules 7-11(a) and 79-5  
 3 Defendant Netflix, Inc. (“Netflix” or “Defendant”) hereby moves for an order permitting it to file  
 4 documents under seal. Therefore, pursuant to Civil L.R. 79-5, Defendant moves for leave to file  
 5 the narrowly tailored portions of Exhibit A to the Unopposed Motion for Leave to Supplement its  
 6 Responsive Damages Contentions (“Exhibit A”), under seal.

7                   **A. Legal Standard**

8                   To determine whether to allow documents to be filed under seal under Ninth Circuit law,  
 9 two different tests apply depending on circumstances. The “compelling reason” test applies to  
 10 documents attached to dispositive motions or documents, *Kamakana v. City and County of*  
 11 *Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006), or where the motion is “more than  
 12 tangentially related to the underlying cause of action,” *Ctr. for Auto Safety v. Chrysler Grp., LLC*,  
 13 809 F.3d 1092, 1099 (9th Cir. 2016). The less-restrictive “good cause” test applies to documents  
 14 attached to other non-dispositive motions. *Kamakana*, 447 F.3d at 1178-80. Here, the good  
 15 cause test applies because the underlying discovery is non-dispositive and is only tangentially  
 16 related to the underlying contract cause of action. *See Prolifiq Software Inc. v. Veeva Sys. Inc.*,  
 17 No. C-13-03644-SI, 2014 WL 2527148, at \*3 (applying good cause to motion to seal trade secret  
 18 identification and related exhibits in discovery dispute). Under the “good cause” standard of Rule  
 19 26(c), the Court has “broad latitude” “to prevent disclosure of materials for many types of  
 20 information, including, but not limited to, trade secrets or other confidential research,  
 21 development, or commercial information.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211  
 22 (9th Cir. 2002) (emphasis in original). Regardless, the documents at issue here would likewise  
 23 satisfy the “compelling reasons” test, because one of the key considerations is whether their use  
 24 would “release trade secrets.” *Kamakana*, 447 F.3d at 1179. Fed. R. Civ. P. 26(c)(1)(G)  
 25 specifically notes that “trade secret or other confidential research, development, or commercial  
 26 information” may remain subject to protection.

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1     **B. The Court Should Grant Netflix's Request as to Portions of Exhibit A**

2         As set forth in the accompanying declaration of Elise Edlin, good cause (and a compelling  
3 reason) exists to seal portions of Exhibit A to Netflix's Unopposed Motion for Leave to  
4 Supplement Its Responsive Damages Contentions.

5     **C. Statement of Compliance**

6         Defendant has reviewed and complied with the Standing Order Governing Administrative  
7 Motions to File Materials Under Seal Before District Judge Jon S. Tigar. Defendant has also  
8 reviewed and complied with Civil Local Rule 79-5, including the requirement to file separate  
9 motions if a party seeks to file under seal a document containing "portions that more than one  
10 party bears the burden of showing is sealable."

11             For the foregoing reasons, Netflix respectfully requests that the narrowly tailored portions  
12 of Exhibit A be sealed.

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1 Dated: June 20, 2023

PERKINS COIE LLP

3 By: /s/ *Elise Edlin*

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21 Attorneys for Defendant NETFLIX, INC.

## **CERTIFICATE OF SERVICE**

I, Kate Rose, declare:

I am a citizen of the United States and employed by the firm of Perkins Coie LLP in Santa Clara County, California. I am over the age of eighteen years and not a party to the within-entitled action. On June 20, 2023, I caused to be served a true copy of the sealed version of **EXHIBIT A**  
**TO THE MOTION FOR LEAVE TO SUPPLEMENT ITS RESPONSIVE DAMAGES**  
**CONTENTIONS** upon counsel as listed below:

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I declare under penalty of perjury that the foregoing is true and correct. Executed on June 20, 2023.

/s/ Kate Rose  
Kate Rose